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NOTES OF CASES.

Panama Libel Case.—One phase of the libel suit against Delavan Smith and Charles R. Williams, owners of the Indianapolis News, for publication of certain statements reflecting on persons connected with the acquisition of the Panama Canal route, is passed upon by the United States District Court in *United States v. Smith*, 173 Federal Reporter, 227, on application for a warrant of commitment and an order for removal to the District of Columbia for trial. After referring to the duties of a newspaper publisher to print the news and his right to draw inferences therefrom, the court expresses grave doubt as to the libelous character of the articles admitted to have been published, but rests its final determination of the case on the theory that, if any crime was committed, it was in the state of Indiana, where the paper was printed and mailed, and not in Washington, where a few copies were circulated. See editorial in 15 Va. Law Reg., p. 557, discussing this case.

Right of a City to Own and Control a Farm.—A farm lawfully acquired by defendant, the city of Portland, was managed by it for profit. Plaintiff, a farm hand, was injured by reason of the defective condition of the basement step of a building situated thereon, but defendant denied liability on the ground that its ownership and control of the farm was an ultra vires act. The Supreme Judicial Court of Maine, in *Libby v. City of Portland*, 74 Atlantic Reporter, 805, held that although a city—an object of public and private bounty—could not raise money by taxation for the purchase of a farm, it did not follow that it could not be the lawful owner of a farm, and as such owner maintain the same for pecuniary advantage. "Must the town," say the court, "although the lawful owner, yet, because it is a town, let property, if land, lie fallow, or, if buildings, remain vacant and un-rented?" If the farm had been maintained solely for a public purpose, the court holds that no liability would arise; but where, as in this case, the property was used principally for public purposes, but incidentally and in part for profit, the city is liable for negligence in its management.

Death of Insured Caused by Swallowing Fishbone.—The question whether death is due to a cause covered by an accident insurance policy is one which is not always easy to determine. An example of this is found in *Jenkins v. Hawkeye Commercial Men's Association*, decided by the Supreme Court of Iowa, and reported in 124 Northwestern Reporter, 199. Insured, feeling a pain in the region of his rectum, inserted his finger therein and withdrew a fishbone which he had swallowed. A subsequent examination by a physician disclosed a laceration of the mucus membrane of the rectum, and insured died a

few days later from blood poisoning, which the physician testified was caused by pollution, either from the fishbone or insured's finger in removing it. The insurance certificate was conditioned on death being the result "of external, violent, and accidental means." It was claimed that, as the injury was altogether internal, no recovery could be had; but the court drew a distinction between an injury and the means of injury, and awarded a decree requiring the defendant association to levy an assessment on its members and pay the proceeds of insured's certificate. The court said that it would be presumed that, owing to the instincts of self-preservation, the bone had not been swallowed voluntarily, and that, even if taken carelessly, the fact of injury of this character from taking indigestible matter into the alimentary canal was so out of the ordinary as to constitute an accident; and that, while death was caused by blood poisoning, the poisoning itself would not have occurred had it not been for the accident.

Marriage of Alien Woman to Citizen.—Some interesting questions arise in the cases of *United States ex rel. Nicola v. Williams* and *United States ex rel. Gendering v. Same*, decided by the United States District Court for the Southern District of New York, and reported in 173 Federal Reporter, 626. In the first case, relator, a subject of Turkey, was married to a citizen of the United States, who brought her to this country, where she was stopped by the immigration authorities on the ground that she was suffering from a disease which would exclude her if an alien. The court held that immediately upon her marriage she became a citizen of the United States because of the citizenship of her husband, and could not therefore be excluded, notwithstanding she had never resided in this country. In the second case, the relator came to this country from Holland and married an alien Dutchman in New York. She afterward left her husband, and went back to Holland with a paramour. While residing in that country her husband became a naturalized citizen here. The court held that her citizenship followed that of her husband, notwithstanding her infidelity, and that she was entitled to re-enter this country.

Competency of Roman Catholic Jurors in Action against Bishop.—Because a Roman Catholic bishop was a party to an action, the lower court excluded from the jury all persons of Roman Catholic faith, without reference to their residence, or to any close affiliation with the local church, on the ground that they have a pecuniary interest in the suit analogous to that which taxpayers have in a suit against the city or town in which they reside. The Supreme Judicial Court of Massachusetts in *Searle v. Roman Catholic Bishop of Springfield*, 89 Northeastern Reporter, 809, holds that it cannot be